

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
SOUTHWESTERN DIVISION**

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|---------------------------------|---|----------------------------|
| TERRY N. SARGENT, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Case No. 05-5137-CV-SW-FJG |
| |) | |
| THE PEPSI BOTTLING GROUP, INC., |) | |
| |) | |
| Defendant. |) | |

ORDER

Currently pending before the Court is defendant's Motion to Dismiss Count II of plaintiff's Complaint (Doc. # 9).

Defendant states that Count II of plaintiff's Complaint must be dismissed because plaintiff failed to obtain a right to sue letter from the Missouri Commission on Human Rights. Plaintiff's charge under the MCHR was investigated by the MCHR and a "no probable cause" finding was issued. Defendant states that if the MCHR determines that no probable cause exists, then the charge is closed and the charging party can proceed no further. Plaintiff's counsel advised the Court that he does not contest defendant's motion to dismiss. Accordingly, defendant's Motion to Dismiss Count II of plaintiff's Complaint is hereby **GRANTED** (Doc. # 9).

Date: January 24, 2006
Kansas City, Missouri

S/ FERNANDO J. GAITAN, JR.
Fernando J. Gaitan, Jr.
United States District Judge